

Commodity Futures Trading Commission

§ 151.1

average daily volume of 5,000 contracts and a liquid cash market, an exchange bylaw, regulation or resolution requiring traders to provide information about their position upon request by the exchange and to consent to halt increasing further a trader's positions if so ordered by the exchange, *provided, however*, such contract markets are not exempt from the requirement of paragraphs (b) or (c) that they adopt an exchange bylaw, regulation or resolution setting a spot month speculative position limit with a level no greater than one quarter of the estimated spot month deliverable supply;

(4) For purposes of this paragraph, trading volume and open interest shall be calculated by combining the month-end futures and its related option contract, on a delta-adjusted basis, for all months listed during the most recent calendar year.

(f) *Other exemptions.* Exchange speculative position limits adopted pursuant to this section shall not apply to any position acquired in good faith prior to the effective date of any bylaw, rule, regulation, or resolution which specifies such limit or to a person that is registered as a futures commission merchant or as a floor broker under authority of the Act except to the extent that transactions made by such person are made on behalf of or for the account or benefit of such person. In addition to the express exemptions specified in this section, a contract market may propose such other exemptions from the requirements of this section consistent with the purposes of this section and shall submit such rules Commission review under section 5a(1)(12) of the Act and § 1.41(b) of this chapter.

(g) *Aggregation.* In determining whether any person has exceeded the limits established under this section, all positions in accounts for which such person by power of attorney or otherwise directly or indirectly controls trading shall be included with the positions held by such person; such limits upon positions shall apply to positions held by two or more person acting pursuant to an express or implied agreement or understanding, the same as if

the positions were held by a single person.

[64 FR 24048, May 5, 1999]

§ 150.6 Responsibility of contract markets.

Nothing in this part shall be construed to affect any provisions of the Act relating to manipulation or corners nor to relieve any contract market or its governing board from responsibility under section 5(4) of the Act to prevent manipulation and corners.

[52 FR 38923, Oct. 20, 1987, as amended at 59 FR 5528, Feb. 7, 1993]

PART 151—POSITION LIMITS FOR FUTURES AND SWAPS

Sec.

151.1 Definitions.

151.2 Core Referenced Futures Contracts.

151.3 Spot months for Referenced Contracts.

151.4 Position limits for Referenced Contracts.

151.5 Bona fide hedging and other exemptions for Referenced Contracts.

151.6 Position visibility.

151.7 Aggregation of positions.

151.8 Foreign boards of trade.

151.9 Pre-existing positions.

151.10 Form and manner of reporting and submitting information or filings.

151.11 Designated contract market and swap execution facility position limits and accountability rules.

151.12 Delegation of authority to the Director of the Division of Market Oversight.

151.13 Severability.

APPENDIX A TO PART 151—SPOT-MONTH POSITION LIMITS

APPENDIX B TO PART 151—EXAMPLES OF BONA FIDE HEDGING TRANSACTIONS AND POSITIONS

AUTHORITY: 7 U.S.C. 1a, 2, 5, 6, 6a, 6c, 6f, 6g, 6t, 12a, 19, as amended by Title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. 111-203, 124 Stat. 1376 (2010).

SOURCE: 76 FR 71684, Nov. 18, 2011, unless otherwise noted.

§ 151.1 Definitions.

As used in this part—

Basis contract means an agreement, contract or transaction that is cash-settled based on the difference in price of the same commodity (or substantially the same commodity) at different delivery locations;

Calendar spread contract means a cash-settled agreement, contract, or transaction that represents the difference between the settlement price in one or a series of contract months of an agreement, contract or transaction and the settlement price of another contract month or another series of contract months' settlement prices for the same agreement, contract or transaction.

Commodity index contract means an agreement, contract, or transaction that is not a basis or any type of spread contract, based on an index comprised of prices of commodities that are not the same or substantially the same; *provided that*, a commodity index contract used to circumvent speculative position limits shall be considered to be a Referenced Contract for the purpose of applying the position limits of § 151.4.

Core Referenced Futures Contract means a futures contract that is listed in § 151.2.

Eligible Entity means a commodity pool operator; the operator of a trading vehicle which is excluded, or which itself has qualified for exclusion from the definition of the term "pool" or "commodity pool operator," respectively, under § 4.5 of this chapter the limited partner or shareholder in a commodity pool the operator of which is exempt from registration under § 4.13 of this chapter; a commodity trading advisor; a bank or trust company; a savings association; an insurance company; or the separately organized affiliates of any of the above entities:

(1) Which authorizes an independent account controller independently to control all trading decisions with respect to the eligible entity's client positions and accounts that the independent account controller holds directly or indirectly, or on the eligible entity's behalf, but without the eligible entity's day-to-day direction; and

(2) Which maintains:

(i) Only such minimum control over the independent account controller as is consistent with its fiduciary responsibilities to the managed positions and accounts, and necessary to fulfill its duty to supervise diligently the trading done on its behalf; or

(ii) If a limited partner or shareholder of a commodity pool the operator of which is exempt from registration under § 4.13 of this chapter, only such limited control as is consistent with its status.

Entity means a "person" as defined in section 1a of the Act.

Excluded commodity means an "excluded commodity" as defined in section 1a of the Act.

Independent Account Controller means a person:

(1) Who specifically is authorized by an eligible entity independently to control trading decisions on behalf of, but without the day-to-day direction of, the eligible entity;

(2) Over whose trading the eligible entity maintains only such minimum control as is consistent with its fiduciary responsibilities for managed positions and accounts to fulfill its duty to supervise diligently the trading done on its behalf or as is consistent with such other legal rights or obligations which may be incumbent upon the eligible entity to fulfill;

(3) Who trades independently of the eligible entity and of any other independent account controller trading for the eligible entity;

(4) Who has no knowledge of trading decisions by any other independent account controller; and

(5) Who is registered as a futures commission merchant, an introducing broker, a commodity trading advisor, or an associated person of any such registrant, or is a general partner of a commodity pool the operator of which is exempt from registration under § 4.13 of this chapter.

Intercommodity spread contract means a cash-settled agreement, contract or transaction that represents the difference between the settlement price of a Referenced Contract and the settlement price of another contract, agreement, or transaction that is based on a different commodity.

Referenced Contract means, on a futures equivalent basis with respect to a particular Core Referenced Futures Contract, a Core Referenced Futures Contract listed in § 151.2, or a futures contract, options contract, swap or swaption, other than a basis contract or commodity index contract, that is:

Commodity Futures Trading Commission

§ 151.2

(1) Directly or indirectly linked, including being partially or fully settled on, or priced at a fixed differential to, the price of that particular Core Referenced Futures Contract; or

(2) Directly or indirectly linked, including being partially or fully settled on, or priced at a fixed differential to, the price of the same commodity underlying that particular Core Referenced Futures Contract for delivery at the same location or locations as specified in that particular Core Referenced Futures Contract.

Spot month means, for Referenced Contracts, the spot month defined in § 151.3.

Spot-month, single-month, and all-months-combined position limits mean, for Referenced Contracts based on a commodity identified in § 151.2, the maximum number of contracts a trader may hold as set forth in § 151.4.

Spread contract means either a calendar spread contract or an intercommodity spread contract.

Swap means “swap” as defined in section 1a of the Act and as further defined by the Commission.

Swap dealer means “swap dealer” as that term is defined in section 1a of the Act and as further defined by the Commission.

Swaption means an option to enter into a swap or a physical commodity option.

Trader means a person that, for its own account or for an account that it controls, makes transactions in Referenced Contracts or has such transactions made.

§ 151.2 Core Referenced Futures Contracts.

(a) *Agricultural commodities.* Core Referenced Futures Contracts in agricultural commodities include the following futures contracts and options thereon:

(1) Core Referenced Futures Contracts in legacy agricultural commodities:

- (i) *Chicago Board of Trade Corn (C)*;
- (ii) *Chicago Board of Trade Oats (O)*;
- (iii) *Chicago Board of Trade Soybeans (S)*;
- (iv) *Chicago Board of Trade Soybean Meal (SM)*;

(v) *Chicago Board of Trade Soybean Oil (BO)*;

(vi) *Chicago Board of Trade Wheat (W)*;

(vii) *ICE Futures U.S. Cotton No. 2 (CT)*;

(viii) *Kansas City Board of Trade Hard Winter Wheat (KW)*; and

(ix) *Minneapolis Grain Exchange Hard Red Spring Wheat (MWE)*.

(2) Core Referenced Futures Contracts in non-legacy agricultural commodities:

(i) *Chicago Mercantile Exchange Class III Milk (DA)*;

(ii) *Chicago Mercantile Exchange Feeder Cattle (FC)*;

(iii) *Chicago Mercantile Exchange Lean Hog (LH)*;

(iv) *Chicago Mercantile Exchange Live Cattle (LC)*;

(v) *Chicago Board of Trade Rough Rice (RR)*;

(vi) *ICE Futures U.S. Cocoa (CC)*;

(vii) *ICE Futures U.S. Coffee C (KC)*;

(viii) *ICE Futures U.S. FCOJ-A(OJ)*;

(ix) *ICE Futures U.S. Sugar No. 11 (SB)*; and

(x) *ICE Futures U.S. Sugar No. 16 (SF)*.

(b) *Metal commodities.* Core Referenced Futures Contracts in metal commodities include the following futures contracts and options thereon:

(1) *Commodity Exchange, Inc. Copper (HG)*;

(2) *Commodity Exchange, Inc. Gold (GC)*;

(3) *Commodity Exchange, Inc. Silver (SI)*;

(4) *New York Mercantile Exchange Palladium (PA)*; and

(5) *New York Mercantile Exchange Platinum (PL)*.

(c) *Energy commodities.* The Core Referenced Futures Contracts in energy commodities include the following futures contracts and options thereon:

(1) *New York Mercantile Exchange Henry Hub Natural Gas (NG)*;

(2) *New York Mercantile Exchange Light Sweet Crude Oil (CL)*;

(3) *New York Mercantile Exchange New York Harbor Gasoline Blendstock (RB)*; and

(4) *New York Mercantile Exchange New York Harbor Heating Oil (HO)*.